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No. 71

In the Supreme Court of the United States

OCTOBER TERM, 1950

INTERNATIONAL WORKERS ORDER, INC. AND ARTHUR LOWNDES DRAYTON, PETITIONERS

v.

J. HOWARD MCGRATH, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE UNITED STATES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE RESPONDENT

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This memorandum is addressed to a "Motion to Take Judicial Notice" recently filed by petitioners. That motion refers to certain proceedings had in a state court in New York, and to a statement made by a Special Assistant to the Attorney General in the course of those proceedings. The respondent has no objection to this Court's taking judicial notice of the matters set forth if this Court should deem those matters relevant to any issue now before it for decision. In the event that this Court should consider those matters, we

believe that it should be informed more fully of the nature and extent of the so-called "intervention" (Motion, p. 2) of the United States in the state court proceedings.

A number of communications have been received by the Department from state authorities with respect to possible action by the states involving organizations designated on the Attorney General's list. It has been, and continues to be, the policy of the Department that, while it may as a matter of comity make available to state authorities information whose disclosure the national interest permits, the designation of an organization by the Attorney General is made solely for purposes of the Loyalty Program, and that the question of what proceedings, if any, a state should take with respect to any organization subject to its jurisdiction is a matter of state policy.

This policy was adhered to in connection with the New York proceedings to which petitioners refer. Sometime ago officers of the State of New York inquired of the Department of Justice whether it had evidence bearing on the eligibility of petitioner International Workers Order, Inc. to continue to function as an insurance organization under New York law. In response to that inquiry, the Department indicated that it would be glad to cooperate with the state authorities to the extent indicated above. Thereafter proceedings were brought by a state officer for relief under state law. The United States is not a

party to those proceedings and the representative of the Department of Justice was authorized to be present only as an observer and not as a participant. Should any question arise therein as to the significance, if any, to the state proceedings of the Attorney General's designation of petitioner as a subversive organization, or the weight to be given that designation, it would present a matter for the state court to determine.

Respectfully submitted.

PHILIP B. PERLMAN,
Solicitor General.

JANUARY 1951.

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